

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 03-10387-DPW
	)	
EARL CHARLEY	)	

ASSENTED-TO MOTION TO CONTINUE SENTENCING HEARING

Defendant, Earl Charley, hereby moves to continue the sentencing hearing in the above matter, presently scheduled for October 6, 2005, to a date convenient to the Court but no earlier than November 28, 2005. As reasons therefore, counsel states the following:

1. On August 25, 2005, just before the previously scheduled sentencing hearing in this matter, the U.S. Probation Office revised its report to recommend that defendant be deemed an Armed Career Criminal subject to a fifteen-year mandatory minimum sentence. See 18 U.S.C. § 924(e). Defendant would otherwise be facing an advisory guideline sentencing range of 70-87 months.
2. As a result of this change, the Court granted defendant's request for additional time to conduct additional factual and legal research into the convictions cited by the Probation Office. The Court rescheduled the sentencing hearing for October 6, 2005.
3. Counsel, for a number of reasons, has been unable to yet complete this factual and legal research. Most notably, counsel has been taking intermittent leaves of absence during the month of September to attend to unexpected health emergencies of counsel's elderly parents, both of whom have been hospitalized during the month of September. These leaves have resulted in counsel's diversion of attention from counsel's ordinary caseload, including this matter.

4. Defendant therefore requests an additional continuance of the sentencing hearing in order to better review the Probation Department's position, conduct investigation, and submit a timely sentencing memorandum.
5. Although defendant is prepared to go forward to sentencing absent the Armed Career Criminal issue, counsel is requesting a substantial continuance of the hearing because: (1) counsel anticipates additional intermittent leaves of absence over the next two weeks to attend to his parents, (2) counsel is preparing for and going to trial in United States v. Girard LaFortune, No. 03-10366-PBS, a trial scheduled to begin October 31, 2005 that features a thirty-five year statutory mandatory minimum sentence, (3) counsel is preparing for and going to trial in United States v. Sonny Baiona, et. al., No. 03-10304-GAO, a two-week trial scheduled to begin on November 8, 2005, and (4) counsel has First Circuit briefing deadlines in October in United States v. Jesus Arteaga, No. 04-2405, and United States v. Sagendorf, No. 05-1991.
6. The Speedy Trial Act does not apply to this Motion as defendant has already pled guilty.
7. The government, by and through Assistant U.S. Attorney Christopher Bator, assents to this motion.

EARL CHARLEY  
By his Attorney,

/s/ Timothy G. Watkins  
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